

MCFA News

Bulletin of the Minor Crop Farmer Alliance

July 2011

Minor Crop Farmer Alliance Endangered Species Act Workshop

Summary

Key representatives from the US Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) collectively referred to as the Services, EPA and USDA participated in the **Endangered Species Act Workshop** sponsored by MCFA in Denver, May 24 and 25. The purpose of the workshop was to bring EPA, USDA and the Services involved in ESA regulatory actions together with grower representatives and representatives of the registrant community to increase understanding and provide a higher level of transparency in policy actions. The goals for the workshop were to:

- Provide grower and registrant representatives an understanding of the processes and analysis involving risk and mitigation options by each agency,
- Identify grower level data that could enhance the risk assessment and risk mitigation decision process, and
- Initiate discussions on the mechanisms and timing to introduce data into the analysis.

The workshop provided a unique forum for grower organizations and registrants to exchange ideas and perspectives with the Services, EPA and USDA on ESA regulatory decisions. Grower groups and registrants have a working relationship with EPA that has resulted in having the opportunity to provide information into the pesticide re-registration decision-making process. A similar understanding and working relationship with the Services in their development of Biological Opinions (BiOp)s does not exist. The Workshop represented an effort to increasing understanding of the data and information needs, the availability of such information with an ultimate goal of creating robust BiOp)s.

The Workshop highlighted that the methodology and assumptions used by the Services are not consistent with risk assessment procedures use by EPA and, therefore, may result in exaggerated risk assessment and restrictions. For example, unlike EPA, the Services assume that the full label rate is used on all acreage for all crops approved for the compound. MCFA members and registrants hoped to explore this with the Services to see if actual use data could serve as a framework for ESA analysis.

The two-day session of intense discussions proved very helpful in providing user groups with a better understanding of the risk assessment process utilized by the Services in developing Biological Opinions. The Services, USDA and EPA were interested in expanding their understanding of issues and perspectives of grower groups and registrants. The result was a frank and open discussion recognizing the deficiencies in the process and need to evaluate ways to improve the BiOp process. The participants agreed that additional follow-up is needed and a commitment was made to continue the dialogue.

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The workshop featured presentations on risk assessment, mitigation and data needs by EPA, NMFS, USFWS and USDA as well as case histories and round table discussions. Program organizer, Dan Botts, Florida Fruit and Vegetable Association, chairman of MCFA's Technical Committee, said that MCFA wanted to improve the understanding by the agencies of how actual use and grower information could be helpful in policy determination. At the same time, grower representatives want to learn how they can constructively participate in the process.

EPA representatives reviewed the processes used by the agency in the FIFRA pesticide re-registration process and noted points at which data from registrants and industry was requested and entered into the analysis. In the process, EPA seeks to identify risks to endangered species. The agency develops a final work plan, refines the risk assessment, and considers mitigation measures that could eliminate risk to the public and endangered species. At the final risk assessment and proposed decision, the agency publishes the Proposed Decision for public comment. It was noted that EPA is opening 70 new dockets each year through 2017.

When EPA issues a Final Decision, they must provide their findings to the Services with a recommendation that the pesticide poses no risk to endangered species or habitat or that the risk can be mitigated. At that point, EPA invites ESA consultation with the Services. The Service may issue a BiOP requiring additional risk mitigation termed Reasonable and Prudent Alternatives (RPAs) and Reasonable and Prudent Mitigation (RPMs).

In the consultation process, the Service consider all stressors that might jeopardize species or modify habitat including active ingredients, metabolites and degradates, other ingredients, tank mixtures and adjuvants reviewing pesticide labels in terms of where pesticides could be applied, methods of application, ingredients and tank mixtures. It was noted that risk was calculated based on EPA's fifteen-year registration review cycle. The fifteen-year risk assessment was of particular importance in the whether to consider actual use data as opposed to label rates as the basis for risk assessment. The Services expressed concern that, if the action was to be approved for a fifteen-year time period, what assurance was there that current use rates would not change?

The Office of Pest Management Policy (OPMP) reviewed the data and resources available from USDA that are utilized in the FIFRA dietary risk assessment and could be utilized in the ESA risk assessment analysis as well.

A round-table discussion of EPA and the Services processes for risk analysis and the consultation process followed. MCFA participants stressed the need to understand how and when registrants and agricultural groups could engage in the process and provide data useful to policy decisions.

The round-table discussion of the case histories provided a perspective from all groups on the process. The critical question posed by the agricultural groups was "Where are there opportunities for grower information to enhance the decision making process?" It was suggested that the best place for grower input would be in the data package developed by EPA. All agreed that the underlying process must be

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science based and that a collaborative process was needed. It was noted that there was a need to introduce as much information as possible early in the process.

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A more detailed report regarding the Workshop is being posted on the following MCFA member websites: Florida Fruit & Vegetable Association, www.ffva.com (click on "Resources" on the top banner); and California Citrus Quality Council, www.calcitrusquality.org.

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